

ELECTRONIC BANKRUPTCY NOTICING VIA THE BANKRUPTCY NOTICING CENTER

Abbreviated Guidelines by the U.S. Bankruptcy Court, District of Vermont

I. Introduction

Electronic Bankruptcy Noticing (EBN) is the result of a nationwide effort of the U.S. Bankruptcy Courts to provide more efficient and convenient noticing service to court users and to reduce postage costs. Users of the U.S. Bankruptcy Court, District of Vermont (USBC-VT) may now subscribe to EBN and receive most court notices via electronic means: fax or e-mail. A description of the systems requirements and protocols for both electronic noticing methods follows, and sign-up forms are included in Appendix A.

II. Methods of Electronic Noticing

A. Fax Noticing

1. Systems Requirements

The subscriber must have an open fax line and working machine in place for notice transmittals in the evening. Note: Some offices turn off fax machines at the end of the business day. Machines must remain on during the evening hours to take advantage of fax noticing.

2. Protocols

a. Trial Period

The BNC will confirm that the subscriber's fax number and machine are working. Fax service will begin approximately two weeks after the **Noticing Agreement (see Section III, A)** is returned to the BNC. As a safety measure, the BNC will continue to send paper notices, in addition to faxed notices, for the first 30 days of fax service. Once the 30 days have expired, all notices will be sent electronically, without further notice to the subscriber.

b. Transmittal Format

The BNC will include one cover sheet per recipient for all notices from the same district, showing the name and address of the recipient, case number, court form code, originating court, date, and the total number of pages included in the fax, followed by the actual notices. No fax will exceed 30 pages. If the entire transmittal exceeds 30 pages, it will be broken into segments, with no fax segment containing more than 30 pages. **However, if a single notice exceeds 30 pages, that particular notice will be mailed, not faxed.**

c. Transmission Logs

Confirmation of receipt will consist of a fax log acknowledging successful transmission. The BNC maintains this log; neither the subscriber nor the court is involved.

d. Transmission Failure Back-up: Notices Mailed

The BNC will make three attempts to deliver notices by fax. If the initial transmission fails, the transmission will begin again at the cover sheet. If a confirmation of receipt is not received within three attempts, the document will be mailed the following day.

e. Multiple Transmission Failures: Discontinuation of Service

Should transmission to the subscriber fail three consecutive evenings (even if those evenings are separated by several days), the service will be terminated without further notice, and only mailed copies will be sent. The subscriber must contact the court EBN coordinator (Chris O’Gorman, 802-776-2012) or the BNC (877-837-3424) to resolve the issue and reinstate service.

f. Copies

The BNC will not retransmit notices. The subscriber must contact the court to obtain another copy.

B. E-Mail Noticing

1. Systems Requirements

The subscriber must have an Internet connection and an e-mail account. **The e-mail provider must have a Delivery Status Notification (DSN) feature.** DSN provides confirmation to the BNC that the notice was delivered to the subscriber’s mailbox. DSN is required by Federal Rule of Bankruptcy Procedure 9036 and assures both the subscriber and the court that notices are successfully delivered.

It is important to differentiate between e-mail providers and e-mail programs. Almost every e-mail program can be set up to send a confirmation receipt; however, this is a user-controlled feature that may or may not be activated. When the e-mail **provider** offers DSN, the provider controls the feature, and receipts are sent automatically, without any action on the subscriber’s part.

Not all e-mail providers are DSN-compliant. Some that are not compliant are AOL, Yahoo, MSN, Mindspring, sover.net, together.net, and vermontel.com. For a list of DSN-compliant providers, or to have a current account tested for compliance, please visit the website www.ebnuscourts.com, or call the BNC’s toll-free support line, **877-837-3424**.

2. Protocols

a. Trial Period

The BNC will confirm that the subscriber's e-mail account is working and that the provider is DSN-compliant. E-mail service will begin approximately two weeks after the **Noticing Agreement (see Section III, A)** is returned to the BNC. As a safety measure, the BNC will continue to send paper notices, in addition to electronic notices, for the first 30 days of e-mail service. Once the 30 days have expired, all notices will be sent electronically, without further notice to the subscriber.

b. Software Requirement

The subscriber must have Adobe Acrobat PDF reader software Version 4.0 or higher, because notices will arrive as PDF file attachments. This software may be downloaded, free of charge, from the following website:

www.adobe.com/prodindex/acrobat/readstep.html. When signing up for e-mail noticing service, the subscriber must choose one of the following three delivery options for PDF attachments:

- i. A single e-mail with a single PDF file attachment containing multiple notices. (Example: 25 notices would be sent as one e-mail with one PDF file attachment.)
- ii. A single e-mail for each notice, with one PDF file attachment per e-mail. (Example: 25 notices would be sent as 25 e-mails, each e-mail with one PDF file attachment.)
- iii. An e-mail with multiple PDF file attachments (up to 25), each attachment containing one notice. (Example: 25 notices would be sent as one e-mail with 25 PDF file attachments.)

c. Transmission Frequency

E-mail notices will be transmitted each evening.

d. Transmission Failure Back-up: Notices Mailed

If the BNC cannot confirm receipt of delivery for any reason, the notice will be printed and mailed the next day.

e. Multiple Transmission Failures: Discontinuation of Service

Should transmission to the subscriber fail three **consecutive** evenings (even if those evenings are separated by several days), the service will be terminated without further notice, and only mailed copies will be sent. The subscriber must contact the court EBN coordinator (Chris O'Gorman, 802-776-2012) or the BNC (877-837-3424) to resolve the issue and reinstate service.

f. Deletion of Notices by Internet Service Provider

The BNC is not responsible for notices that are acknowledged but incorrectly deleted by the subscriber's Internet service provider for any reason; e.g., if the Internet service provider makes an incorrect determination that the notices are unsolicited "junk" e-mail.

g. Copies

The BNC will not retransmit notices. The subscriber must contact the court to obtain another copy.

III. Establishing Electronic Noticing Service

The subscriber will establish electronic noticing service (either fax or e-mail) through the USBC-VT. To sign up for service, please complete the following forms (included as Appendix A) and return them to Chris O'Gorman at the USBC-VT for processing.

Please note: Items A and B are mandatory; service cannot be established without them. Item C may or may not be required, depending on the configuration of individual law firms. If Item C is not applicable, please return the blank forms to the court with the phrase "Not Applicable" written across the top.

A. Local Court Monitoring Agreement - Electronic Bankruptcy Noticing Agreement (Mandatory)

This is the primary document establishing EBN service. The BNC software will attempt to match the name and address provided on these forms to the address included in the court's notice instructions. The USBC-VT can provide to attorneys and other court users a list of their various name and address configurations that currently are in the court's electronic case management database. Subscribers may contact Chris O'Gorman at 802-776-2012 for this listing.

If necessary, please attach additional names and addresses (spelling variations) by which notices are received. The subscriber's address(es) must contain Zip+4 zip codes. These zip codes may be found on the Internet at www.usps.com.

B. Method of Noticing Sheet (Mandatory)

The subscriber must choose one of the following sheets, based upon which method of service is desired:

1. Facsimile Transmission Sheet

OR

2. Internet E-mail with PDF Attachment Sheet

The subscriber's signature is required on this sheet.

C. Evidence of Authority Form (Optional)

There are two versions of this form (see below), and some subscribers will need to submit at least one of them. Some subscribers will need to submit both. Each version is described below.

1. Evidence of Authority Form - Authorized Agent

Subscribers must submit this form when they wish to designate another individual to receive notices on their behalf. For example, if an attorney wants her secretary or paralegal to receive her notices, she must designate these individuals as “Authorized Agents.”

This form may be photocopied and submitted for as many individuals as need to be designated Authorized Agents. Typically, this form would apply to notices issued by e-mail rather than to notices issued to a common office fax machine.

2. Evidence of Authority Form - Related Names

Subscribers must submit this form if one of the following is true:

- a. The subscriber is a multiple-attorney law firm, where many attorneys wish to receive notices at the same fax number or e-mail address.
- b. The subscriber is a company that wishes to receive notices for a related company, such as a parent or subsidiary company.

This form may be photocopied and submitted for as many names as necessary.

IV. Conclusion

Electronic noticing, whether by fax or e-mail, represents an opportunity to improve significantly the process of noticing in the bankruptcy court by increasing efficiency and reducing paperwork and costs. All court users are strongly encouraged to take advantage of this new technology. However, it is important to be aware that not all notices issued will be processed through the BNC. Those generated by trustees, attorneys, debtors, and some court-generated notices or orders will continue to be mailed to the address of record at the court.